

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 104/TT/2020

Subject : Petition for truing up of transmission tariff of 2014-19 period and determination of transmission tariff of 2019-24 period of 3 assets under “Northern Region System Strengthening Scheme-XVIII” in Northern Region.

Date of Hearing : 24.6.2020

Coram : Shri P.K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member

Petitioner : Powergrid Corporation of India Limited

Respondents : Uttar Pradesh Power Corporation Ltd. &16 Others

Parties present : Shri R.B. Sharma, Advocate, BRPL & BYPL
Shri Anurag Sharma, Advocate, PTCUL
Shri V. P. Rastogi, PGCIL
Shri A.K. Verma, PGCIL
Shri S. P. Arya, PTCUL

Record of Proceedings

The matter was heard through video conferencing.

2. The representative of the Petitioner submitted that the tariff from COD to 31.3.2019 for Asset-I: Combined Assets: one circuit of 400 kV D/C Dehradun-Bagpat line along with associated bays at both ends, part of second circuit of 400 kV D/C Dehradun-Bagpat Line as 400 kV S/C Roorkee-Dehradun line from Dehradun end and partly as 400 kV S/C Saharanpur-Bagpat line from Bagpat end using part of one circuit of 400 kV D/C Roorkee-Saharanpur line (under-NRSS XXI) at intersection point along with associated bays at Dehradun and Bagpat end and Asset II: 400/220 kV, 315 MVA ICT-1 at Dehradun and associated bays with 1 no. 220 kV line bay, 400/220 kV, 315 MVA ICT-II at Dehradun and associated bays with 1 no. 220 kV line bay, and 80 MVAR bus reactor at Dehradun and associated bays, was determined vide order dated 30.11.2017 in Petition No. 55/TT/2017. However, tariff for Asset III: 04 Nos. 220 kV bays at Dehradun Sub-station was not allowed as the associated downstream transmission system under the scope of work of PTCUL was not ready and the



Petitioner was directed to file a fresh petition matching with the COD of the downstream transmission system of PTCUL. The Petitioner filed Review Petition No. 8/RP/2018 against the order dated 30.11.2017 in Petition No.55/TT/2017 for approval of COD of Asset-III and annuity paid to the Forest Department. The Commission, vide order dated 12.6.2018, rejected the prayer for approval of COD of Asset-III and reiterated its earlier decision while directing the Petitioner to match the COD of Asset-III with the downstream assets of PTCUL and directed to raise the issue of annuity at the time of filing of the tariff petition for Asset-III.

2. The associated downstream transmission system under the scope of work of PTCUL has not been completed. Therefore, the Petitioner sought approval of COD of Asset-III under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. However, there was no specific prayer to that effect and therefore the Petitioner was directed to amend the petition by including a specific prayer for approval of COD of Asset-III under the said provision and the respondents, including PTCUL, were directed to file their reply.

3. During the hearing, the representative of the Petitioner submitted that as per RCE there is no cost over-run and they have furnished the asset-wise details of additional capitalization during 2014-19 period. He submitted that higher depreciation on IT Equipment has been claimed, which was not claimed earlier. He submitted that the prayer has been amended and PTCUL has also been impleaded as a party to the petition. He submitted that BRPL has filed its reply and it has filed the rejoinder to BRPL's reply. He also submitted that the issue of annuity pertains to Asset-I and not to Asset-III. He requested for 2 weeks' time to file rejoinder to PTCUL's reply dated 11.6.2020, which was granted by the Commission.

4. The representative of the Petitioner further submitted that the issue of associated downstream transmission system under the scope of PTCUL was discussed at various meetings of the NRPC. In the 43rd meeting of NRPC, PTCUL submitted that lines associated with the downstream system will be completed in November, 2021. All communication with PTCUL w.r.t. associated downstream transmission network for Asset III has been submitted by the Petitioner vide Technical Validation (TV) reply dated 25.2.2020.

5. The learned counsel for BRPL submitted that reply in the matter has been filed vide affidavit dated 18.2.2020 and he reiterated the submissions made in the reply. He submitted that the Petitioner has claimed tariff for parts of three uncompleted transmission lines alongwith their respective bays, whereas, the Regulations do not envisage tariff for such an arrangement. He also relied upon the judgment of the Appellate Tribunal for Electricity dated 12.5.2015 in Appeal No. 129 of 2012 in support of his argument. He further submitted that Asset-III is not a standalone element and is a part of the Transmission Line. He further submitted that in light of Regulation 6 of the 2014 Tariff Regulations, the tariff for the Asset III cannot be allowed. The learned counsel for BRPL further objected to the claim of accrued IDC and also contended that the claim of Additional Capitalization is premature at this stage. He submitted that the claim of Initial Spares is beyond the ceiling limit prescribed under the Tariff Regulations



and the Commission cannot use its Power to Relax or Power to Remove Difficulties to allow such excessive claim. He also relied upon the judgment of the Hon'ble Supreme Court of India in *Mahadeva Upendra Sinai etc Vs Union of India & Ors* to contend that power to relax cannot be applied in inconsistency with the statute i.e. Electricity Act, 2003. He submitted that the Petitioner has not disclosed whether it is using Optical Ground Wire (OPGW) in case of Asset-I. He also submitted that the Petitioner may be directed to submit the details of deferred tax liability claimed during 2014-19 in respect of the transmission assets which are in operation. Further, he submitted that the actual tax paid on income from other business activities of the Petitioner like Consulting, Communication, Planning and Designing of the National/International projects etc. are required to be excluded for the computation of the effective tax rate which has not been done by the Petitioner and hence it may be directed to clarify the same.

6. The learned counsel for PTCUL submitted that reply in the matter has been filed vide affidavit dated 11.6.2020 and he reiterated the submissions made in the reply. In response to a query of the Commission regarding scheduled COD of the downstream transmission system under its scope, the counsel for PTCUL submitted that there was no downstream transmission system associated with Asset III under the scope of work of PTCUL. He submitted that Asset III was built in compliance with standard norms for Sub-station laid in the Standing Committee Meeting dated 16.2.2008. He submitted that there was no obligation upon PTCUL to utilize the bays as has been wrongly suggested by the Petitioner and hence the elements being built by PTCUL were not a part of the subject Transmission System. He further submitted that even earlier the tariff was denied to the Petitioner because the system was not being put to regular use and hence such a claim being raised by the Petitioner in this petition is improper and further submitted that Prayer 11 which has been incorporated by the Petitioner is unsustainable in view of earlier order in Petition Nos. 55/TT/2017 and 8/RP/2018, as well as the extant Regulations.

7. The representative of the Petitioner requested for time to file rejoinder to the reply filed by PTCUL. The Commission directed the Petitioner to file its rejoinder to PTCUL'S reply and PTCUL to file its written submissions by 13.7.2020. The Commission also directed the parties to strictly adhere to the above specified timeline and observed that no extension of time shall be granted.

8. Subject to the above, the Commission reserved the order in the matter.

By order of the Commission

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(V. Sreenivas)
Deputy Chief (Law)

